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200 Portland Street  
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RE: Boston Gas Company, D.T.E. 01-74 (Fifth Annual PBR Compliance Filing)

Dear Attorneys:

On September 17, 2001, Boston Gas Company d/b/a KeySpan Energy Delivery New England ("Boston Gas" or "Company") submitted to the Department of Telecommunications and Energy ("Department") its fifth annual performance-based regulation ("PBR") compliance filing (Fifth Annual Compliance Filing), pursuant to the Company's PBR plan established by the Department's Orders in Boston Gas Company, D.P.U. 96-50 (Phase I) (1996) and Boston Gas Company, D.P.U. 96-50-C (1997). The filing contained rate schedules M.D.T.E. No. 1177 through No. 1191, with an effective date of November 1, 2001. The proposed rates would increase the Company's 2000 base revenue by \$ 4,898,441 or 1.83 percent. The matter was docketed as D.T.E. 01-74.

On October 12, 2001, the Attorney General requested that the Department clarify the status of the Company's Fifth Annual Compliance Filing ("Request"). The Attorney General argues that the rate increase sought through the Fifth Annual Compliance Filing takes effect

after the end of the five-year term of the PBR authorized by the Department (Request at 2 citing D.P.U. 96-50 (Phase I) at 319). Therefore, the Attorney General contends that the rate increase requested is improper and should be rejected (id. at 3).

On October 19, 2001, the Company filed a response to the Attorney General's Request ("Response"). According to the Company, D.P.U. 96-50 (Phase I) at 260, 320, 338-339, 347 is clear that five annual price changes would occur during the term of the PBR plan (Response at 2). The Company states that its first annual price change was November 1, 1997 and its fifth annual price change would be November 1, 2001 (id. at 2). Therefore, the Company argues that the Attorney General's request should be dismissed and its compliance filing and tariffs should be approved (id. at 3).

When the Department approved Boston Gas' PBR plan on November 29, 1996, we established "cast-off" rates to be effective December 1, 1996. D.P.U. 96-50 (Phase I) at 346-347. We also established a mechanism by which the Company would submit annually a compliance filing on September 15 for implementation of new rates effective the subsequent November 1. Id. at 338-339. We stated that the "initial annual adjustment of the Company's price cap mechanism will take effect on November 1, 1997, with successive annual adjustments through 2001." D.P.U. 96-50 (Phase I) at 320.

Boston Gas' Fifth Annual Compliance Filing was made on September 17, 2001.<sup>1</sup> Id. at 338-339. It included tariffs incorporating the directives of D.P.U. 96-50 (Phase I). Id. The Department has reviewed the Fifth Annual Compliance Filing and we conclude that the Company's filing complies with the requirements of its PBR plan, as modified by the Supreme Judicial Court.<sup>2</sup> Therefore, the Department approves the Company's compliance filing and

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<sup>1</sup> The Company filed its Fifth Annual Compliance Filing on September 17, 2001 because September 15, 2001 fell on a Saturday.

<sup>2</sup> The Company does not include an accumulated inefficiencies factor in the productivity offset of the PBR formula pursuant to a stay by the Supreme Judicial Court. Boston Gas Company d/b/a KeySpan Energy Delivery New England v. Department of Telecommunications and Energy, No. SJ-2001-0043, slip. op. at 3.

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tariffs M.D.T.E. No. 1177 through No. 1191, to become effective November 1, 2001.

By Order of the Department,

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James Connelly, Chairman

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W. Robert Keating, Commissioner

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Paul B. Vasington, Commissioner

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Eugene J. Sullivan, Jr., Commissioner

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Deirdre K. Manning, Commissioner